

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEAN DAVIS, a Minor, by
his Next Friend ANTHONY WHITE,

Plaintiff,

Case No: 20-11168

-vs-

TARGET CORPORATION,
a foreign corporation,

Defendant.

NOTICE OF REMOVAL

TO: The United States District Court
Eastern District of Michigan
Southern Division

NOW COMES the Defendant, TARGET CORPORATION, a Minnesota Corporation, by and through its attorneys, the Law Office of Mark D. Willmarth, and hereby removes this action and gives notice to plaintiff of the removal of this action from the Circuit Court of the State of Michigan, County of Wayne, to the United States District Court for the Eastern District of Michigan, Southern Division, and respectfully shows unto this Court as follows:

1. That TARGET CORPORATION is the only defendant in a civil action brought against it in the Circuit Court for the County of Wayne, State of Michigan, entitled “SEAN DAVIS, a Minor, by his Next Friend ANTHONY WHITE, Plaintiff, vs. TARGET CORPORATION, a foreign corporation,

Defendant” Case No. 19-014705-NI, and that attached hereto are Exhibit 1, Summons, Complaint and Jury Demand; Exhibit 2, Order Appointing Next Friend; Exhibit 3, Appearance and Notice of Appearance; Exhibit 4, Answer to Complaint, Affirmative Defenses, and Notice of Reliance on Demand for Jury Trial; Exhibit 5, Reply to Affirmative Defenses; Exhibit 6, Stipulated Protective Order; Exhibit 7, Scheduling Order; Exhibit 8, Notice of Non-Party Fault; and constitute all process and pleadings served by and upon the parties in such action; and that no further proceedings have been had therein.

2. That the above-captioned action is a civil action over which this Court has original jurisdiction under the provisions of Title 28, United States Code, Section 1332(a) and is one which may be removed to this Court by the petitioner, defendant herein, pursuant to the provisions of Title 28, United States Code, Section 1441(a), in that it is a civil action wherein the plaintiff claims damages in an amount in excess of \$75,000.00, exclusive of interest, costs and attorney fees, by virtue of the charges for medical care and treatment claimed to be due to the alleged incident at the Target in this case in the Total Health Care claim records in the amount of \$40,092.57 for medical care and treatment to date for the alleged injuries to both of plaintiff’s hips in this case, together with expense of future

medical care and treatment which he claims arises from the incident in this case.

Paragraph 13 of the Complaint, Exhibit 1, page 3.

3. These claims for medical treatment damages alleged to be due to the alleged incident at the Dearborn Target were not in possession of defendant prior to receipt thereof from Total Health Care as to the charges for medical treatment claimed.

4. That this notice of removal is timely and proper inasmuch as it is filed within thirty (30) days of receipt of the Total Health Care claim records on May 5, 2020 setting forth the claims for charges for medical care and treatment claimed to be due to the alleged incident at the Dearborn Target in this case to date in the amount of \$40,092.57 and within one (1) year of the filing of the lawsuit on November 4, 2019. 28 USC 1446(b)(3).

5. Where the state court rule provides that plaintiff may not aver a specific amount for unliquidated damages, the defendant may remove the case upon receipt of a paper relating to the amount in controversy by which it is first ascertained that the case is or has become removable. 28 USC 1446(c)(2)(A)(ii), (3)(A). Michigan is a state that prohibits a specific amount being demanded for unliquidated damages such as the injury to both hips, pain and suffering and the like. MCR

2.111(B)(2). Plaintiff complied with this court rule in the Complaint. See Exhibit 1, page 5.

6. That further, this matter may be removed to federal court on the basis of diversity of citizenship under Title 28, United States Code, Section 1332(a)(1) in that plaintiff, SEAN DAVIS and his Next Friend, ANTHONY WHITE, are both residents and citizens of the City of Detroit, State of Michigan, and defendant is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota and is not a citizen of the State of Michigan in that it is neither incorporated in, nor has its principal place of business in, the State of Michigan.

WHEREFORE, defendant gives notice that the above action now pending against it in the Circuit Court of the County of Wayne, State of Michigan is removed therefrom to this Court.

Respectfully submitted,

/s/ Mark D. Willmarth

BY: MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target
503 S. Saginaw Street, Ste. 1000
Flint, MI 48502
(810) 600-4239
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DATED: _May 8, 2020_

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SEAN DAVIS, a Minor, by
his Next Friend ANTHONY WHITE,
Plaintiff,

Case No: 19-014705-NI
Hon Dana Margaret Hathaway

-VS-

TARGET CORPORATION,
a foreign corporation,
Defendant.

Christopher R. Baratta (P51293)
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Attorneys for Defendant Target
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NOTICE TO STATE COURT AND COUNSEL OF REMOVAL

Christopher R. Baratta
Attorney for Plaintiff

CLERK OF THE COURT
Wayne County Circuit Court

PLEASE TAKE NOTICE that the above-captioned cause has been removed from the Wayne County Circuit Court, State of Michigan, to the United States District Court for the Eastern District of Michigan, Southern Division, and that attached hereto is a copy of the Notice of Removal which was duly filed on May 8, 2020 in said Court. The case has been assigned to Federal Judge _____ and is designated as Civil Action No. 20-11168.

Respectfully submitted,

/s/ Mark D. Willmarth

BY: _____

MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target

Dated: May 8, 2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEAN DAVIS, a Minor, by
his Next Friend ANTHONY WHITE,

Plaintiff,

Case No: 20-11168

-vs-

TARGET CORPORATION,
a foreign corporation,

Defendant.

PROOF OF SERVICE

Mark D. Willmarth, being first duly sworn, deposes and says that on the 8th day of May, 2020, he served **NOTICE OF REMOVAL, NOTICE TO STATE COURT AND COUNSEL OF INTEREST OF REMOVAL and PROOF OF SERVICE** upon:

Christopher R. Baratta
Baratta & Baratta, P.C.
120 Market Street
Mt. Clemens, MI 48043

CLERK OF THE COURT
Wayne County Circuit Court
2 Woodward Avenue, 2nd Floor
Detroit, MI 48226

By the Wayne County Circuit Court e-filing and service system and by first class U.S. Mail to plaintiff attorney with postage fully prepaid.

Respectfully submitted,

/S/ Mark D. Willmarth

By:
MARK D. WILLMARTH (P27967)
Attorney for Defendant
503 S. Saginaw Street, Ste. 1000
Flint, MI 48502
(810) 600-4239

Dated: May 8, 2020